



Land Use and Zoning Meeting Minutes

October 24, 2013

STAFF:	David Radachy
DATE:	October 25, 2013

The Land Use and Zoning Committee hereby finds and determines that all formal actions were taken in an open meeting and that all deliberations of the Land Use and Zoning Committee, which resulted in formal action, were taken in a meeting open to the general public, in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.

The meeting was called to order at 6:30 p.m.

Attendance was taken by sign-in sheet. The following members were present: Messrs. Constantine, Kenyon, Klco, Morse, and Welch and Ms. Diak. Staff: David Radachy.

No public comments were made.

Mr. Radachy stated that there were three cases this evening. One from Perry Township, one from Painesville Township and one from Madison Township.

Perry Township – District Change R to SR and B to B-1. Text amendment to Section 302.4E, changing R to SR.

Staff stated the district change was a map change due to Perry Township doing a rewrite of the zoning resolution in 2009. When the Planning Commission reviewed the new resolution, they recommended to the Township to do a map amendment from R to SR and B to B-1. If they did not do the change, then the R and B district would be legal non-conforming parcels because they did not have any regulations to govern them. The text amendment to 304.4E was an oversight by the Township when they transferred the section from the old resolution to the new resolution. It was a good time to fix the issue.

Staff recommended approval.

Mr. Klco made a motion to recommend the district and text amendments.
Mr. Constantine seconded the motion.

All voted "Aye".
Motion to amend passed.

Painesville Township – Text Amendments to Sections 5.07, 6.16, 22.02(E), 28.05 C, and 28.08

Staff stated the Township Zoning Commission sent a revision to the definition of fence. The definition will include walls and earthen mounds four feet in height or more and excludes bushes and other plant materials. They are adding language to Section 6.16 that would not require a zoning certificate

for fences that are part of landscaping and adding outdoor storage as a conditional use to the B-1 District in Section 22.02(E).

The Zoning Commission is adding language to the sign section that requires off-premise sign owners to comply with all government regulations and require them to comply with the Zoning Inspector in Section 28.05 (C). They are also adding language that would allow electronic off-premise signs and general operation requirements in Section 28.05 (C). They are going to allow electronic message boards in B-2, B-3, I-1, I-2, and REC-3 but they are going to prohibit them in residential districts and prohibit scrolling and/or animated message copy in Section 28.08 (1).

Staff stated that these regulations are not addressed by the Painesville Township Comprehensive Plan.

Staff stated that he did not like the definition of fence provided by Painesville Township Zoning Commission. He felt that there was too much in the definition and some of the information belonged in Section 6.13, Fences. He provided the following revision that divided the zoning commission definition into six definitions:

- 5.57 FENCE: Any structure of any material or combination of materials with posts and the materials secured to those posts, that is designed to enclose land, divide land, create a barrier, limit access to or direct passage across land, provide screening, or protect against hazards. Hedges, shrubs, trees or other nature growth shall not be considered a fence.
- 5.58 FENCE, LANDSCAPE FEATURE: Any structure of any material or combination of materials with posts and the materials secured to those posts that is designed to be a decorative feature.
- 5.140 WALL: Any structure of any materials or combination of materials that does not rely on posts for support that is designed to enclose land, divide land, create a barrier, limit access to or direct passage across land, provide screening, or protect against hazard. Hedges, shrubs, trees or other nature growth shall not be considered a wall.
- 5.141 WALL, LANDSCAPE FEATURE: Any structure of any materials or combination of materials that does not rely on posts for support, and the structure is designed to be a decorative feature. Terraces, steps, and other similar improvements will not be deemed to be walls, landscape features.
- 5.69 GATE: A structure designed to allow access through a fence or a wall, but when closed, it performs the same function as a fence or a wall.
- 5.56 EARTHEN BERM: Any structure of any material or combination of inorganic natural materials such as, but not limited to dirt, sand or grass that is designed to enclose land, divide land, mark a boundary, create a barrier, limit access to or direct passage across land, provide screening, protect against hazard, or serve a decorative purpose. Hedges, shrubs, trees or other nature growth shall not be considered an earthen berm.

He also provided a revision of Section 6.13, fences incorporating information that was provided in the zoning commission definition. He stated:

C. Fences are subject to the following regulations:

- 1. Fences shall not be placed in the road right-of-way;
- 2. Fences in any Residential District shall not exceed six (6) feet in height;
- 3. Fences shall be permitted in front yards provided, however, no fences shall be erected closer than twenty (20) feet to the edge of the travelled portion of the road;
- 4. Fences in any Commercial District shall not exceed twelve (12) feet in height;

5. Barbed wire-topped fences and electric fences shall be permitted only in the rear yard of Commercial and Industrial Districts.
6. Prohibited Fences: No Person shall erect or maintain:
 - a. Any fence with a charged electrical current except as provided in 6.13(C)(5).
 - b. A razor wire fence.
 - c. A fence composed of or containing any of the following materials:
 1. Chicken wire
 2. Pallets
 3. Barbed wire
 - 4. Earthen Berms**

D. The posts and all other supporting portions of the fence shall not exceed the maximum height of the fence by more than four (4) inches. **Posts shall be secured to the ground.** The maximum height of the fence shall be measured from the finished grade as shown on the approved site plan or zoning permit application.

6.16 Permit Requirements: Accessory uses, buildings or structures shall conform to the permit requirements outlined in Section XI of the Zoning Resolution. (Adopted May 17, 2011 by Resolution, effective June 16, 2011)

Accessory Structures Not Requiring a Zoning Permit: The following uses do not require a Zoning Permit and shall be permitted to encroach within required yards, unless specifically provided for in this section.

1. Gardens, wood piles or landscape materials.
2. Uncovered patios and other paved areas.
3. Swimming pools, temporary.
4. Accessory structures of twenty-five (25) square feet or less.
5. Mail boxes and newspaper tubes.
6. Statuary, fountains or art objects.
7. Basketball hoops outside of the right-of-way and any temporary road or cul-de-sac easements.
8. Swing sets, trampolines and similar recreational equipment.
9. Flag poles.
10. Freestanding air conditioning or heating units or backup generators.
11. Bird baths.
12. Fire pits, outdoor fireplaces and grills.
- 13. Fences, landscape or walls, landscape**

The committee noted that something was missing from staff's version of section 6.13. It was determined that "6. Prohibited Fences: No Person shall erect or maintain:" was not included in THEhand out. Staff stated that he would make the correction.

Staff stated that he tried to get all of the changes into the definitions that he created and the revisions to the regulations. One of the items that he removed was "permanently" from the regulation that the fence needs to be permanently secured to the ground. Staff stated that permanently was a pretty strong word that requires posts to be in the ground secured to concrete. Staff felt that secured to the ground would fulfill their requirements. Staff stated that there are times when three foot deck spikes

could do the job. The Committee asked when were those times and staff stated over easements on underground pipes. The fence could be down and removed were within twenty minutes and set back up after the work is completed. The posts in concrete would have to be removed and that would take time. Mr. Constantine stated the Zoning Commission was concerned with fences coming down because of wind and other elements. Staff stated that he has a fence that is secured with deck spikes and it has not moved in ten years. Mr. Klco stated that the language that fence needs to be in good repair would help make sure fences don't fall over.

The Committee asked how text amendments were created in Painesville Township. Mr. Constantine stated that usually he writes them and the zoning commission makes changes. In this case, the Zoning Commission had several of their own ideas and they have been working on it on their own for couple of months.

Staff asked the Committee if they wished to make a motion and vote on this item or continue with the rest of the cases from Painesville Township. The Committee decided to continue with all the text amendments form Painesville Township.

Staff stated that Painesville Township was adding Outdoor Storage as conditional use to B-1.

The changes to off premises signs would allow for electronic billboards in the B-3 and the industrial districts. Staff had questions on light trespassing onto neighboring properties especially the residential districts. Staff showed the B-3 districts on the zoning map of Painesville Township and noted that they are very close to residential districts. Staff was concerned about the effect on the residential properties.

Mr. Constantine stated that there was a requirement that the off premise signs needed to be a certain distance away from the residential districts. Staff stated that 28.05 (C)(1) states that they are prohibited in any residential district and any other district within 500 feet street frontage of any residential district. Staff felt that language was confusing. The Committee agreed and thought that it should just be no off premise signs within 500 feet of any residential district. The Committee would like to see no off premise signs allowed in residential districts, 500 feet from any residential district or use.

The committee also discussed that legal non-conforming residential uses should be protected. Residential district is reference in some places in the Painesville Township Zoning Resolution and some places it is residential district or use.

Staff stated that Section 28.08 lists all of the non-residential districts as being able to have electronic message boards. Staff stated that the proposed language went back and forth with the use of the full name, for example, "Gateway Business, (B-1)" and use of the abbreviation, "B-1". Staff recommends referencing the district in just one way. Staff also stated that the revisions electronic message boards dictated the amount of time the message can be up and transition time. It also forbade the use of strobe or flashing lights and mimicking emergency vehicles or traffic control devices. The Committee like those rules.

Staff and the Committee recommended text amendment with the following changes:

Change in fence definitions to read the following:

- 5.57 FENCE: Any structure of any material or combination of materials with posts and the materials secured to those posts, that is designed to enclose land, divide land, create a barrier, limit access to or direct passage across land, provide screening, or protect against hazards. Hedges, shrubs, trees or other nature growth shall not be considered a fence.
- 5.58 FENCE, LANDSCAPE FEATURE: Any structure of any material or combination of materials with posts and the materials secured to those posts that is designed to be a decorative feature.
- 5.141 WALL: Any structure of any materials or combination of materials that does not rely on posts for support that is designed to enclose land, divide land, create a barrier, limit access to or direct passage across land, provide screening, or protect against hazard. Hedges, shrubs, trees or other nature growth shall not be considered a wall.
- 5.142 WALL, LANDSCAPE FEATURE: Any structure of any materials or combination of materials that does not rely on posts for support, and the structure is designed to be a decorative feature. Terraces, steps, and other similar improvements will not be deemed to be walls, landscape features.
- 5.70 GATE: A structure designed to allow access through a fence or a wall, but when closed, it performs the same function as a fence or a wall.
- 5.56 EARTHEN BERM: Any structure of any material or combination of inorganic natural materials such as, but not limited to dirt, sand or grass that is designed to enclose land, divide land, mark a boundary, create a barrier, limit access to or direct passage across land, provide screening, protect against hazard, or serve a decorative purpose. Hedges, shrubs, trees or other nature growth shall not be considered an earthen berm.

Amending Section 6.13 C 6 to read": Prohibited Fences: No Person shall erect or maintain:

- a. Any fence with a charged electrical current except as provided in 6.13(C)(5).
- b. A razor wire fence.
- c. A fence composed of or containing any of the following materials:
 - 1. Chicken wire
 - 2. Pallets
 - 3. Barbed wire

4. Earthen Berms

Revise Section 6.16 13 to read: **13. Fence, landscape, or wall, landscape**

Approve the text amendment to Section 22.02 (E) without change.

Revise Section 28.05 C (1) to read: Advertising signs are prohibited in residential districts and in any district within five hundred feet ~~street frontage~~ of any residential district **or use**.

Revise Section 28.08 to read: Electronic Message Boards are only permitted in the ~~Gateway Business District (B-1), (B-2), (B-3), (I-1), (I-2), (REC-3)~~ and ~~Community Service/Institutional (CS)~~ and must meet all requirements of the Painesville Township Zoning Resolution. **Electronic Message Boards are prohibited in all residential districts.** Delete the district name for CS or add all names.

Ms. Diak made a motion to recommend the revised text amendments.

Mr. Morse seconded the motion.

All voted "Aye".

Motion to amend passed.

Madison Township – Text Amendment to Section 101, Section 114 and Section 141

Staff stated that the Township Trustees asked the Madison Township Zoning Commission to explore adding the NAICS Codes to their Zoning Resolution. The Zoning Commission asked staff to help review this request. Staff recommended and wrote adding them to the definition section. The proposal is to list the NAICS Codes after the definitions and use them as examples of the use.

Staff stated that the Comprehensive Plan recommended removing the SIC Codes because they were difficult to use. Madison Township Zoning Commission followed that recommendation and removed the SIC Codes and replaced them with the table format that the other Townships are using. The NAICS Codes are the only revision of the SIC Codes that Mexico, Canada and United States agree to use to classify economic activities. They are not land use codes. They also do not define the uses, they are only examples.

There are a couple of uses not classified that are on the list. Some of the uses share the same number, for example dry cleaning and laundromats. The trade businesses are together in one category in NAICS, but they are divided in the zoning code. The Madison Township Zoning Resolution divides the retail uses by size (anything over 10,000 sf vs. anything under 10,000 sf). There is no way to do that with codes.

The codes have been updated in 1998, 2002, 2007 and 2012. There are major changes between the 2012 and 1998 codes.

Staff recommends not adding the NAICS Codes to the Definition Section because it does not conform to the 2007 Comp plan. It makes the resolution longer than necessary and it is too difficult to look up the codes. The resolution will specify NAICS 2012 codes, but if someone refers to the wrong book, for example the 1998 code, it could give them the wrong uses and cause confusion.

The Committee agreed with staff's review of the amendment. Members from other townships who used the SIC codes were glad that they were no longer in use in their communities. The Committee had some concern that NAICS Codes were part of the UN Agenda 21 because the codes were coordinated between the United States, Canada and Mexico.

Mr. Constantine made a motion to accept staff's recommendation
Mr. Klco seconded the motion.

All voted "Aye".
Motion to amend passed.

Madison Township is adding Warehousing as a permitted use to B-3 and M-1.

Staff recommends approval on adding the use to the permitted use table.

Mr. Klco made a motion to accept staff's recommendation
Mr. Constantine seconded the motion.

All voted "Aye".
Motion to amend passed.

Section 141 is a revision to what was submitted for review in February of this year. The revision is clearer on several topics including membership requirements, alternates, lists their duties and when the board can suspend the rules. It also revised the section number to 141. Section 140, which the Zoning Commission was submitted under was being used as the Zoning Certificate Section.

Ms. Diak made a motion to accept staff's recommendation.
Mr. Klco seconded the motion.

All voted "Aye".
Motion to amend passed.

Mr. Welch asked for any new business. Staff stated that there was none.

Mr. Welch asked for any old business. Staff stated that there was none.

There was no public comment.

Mr. Morse made a motion to adjourn. Mr. Kenyon seconded. All voted "Aye". Motion passed.

The meeting adjourned at 7:10 PM.